

330 West Broadway
San Diego, CA 92101
(619) 531-4040
SanDiegoDA.com

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

JESUS RODRIGUEZ
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN
DISTRICT ATTORNEY

December 10, 2018

Chief of Police Craig Carter
Escondido Police Department
1163 North Center City Parkway
Escondido, CA 92026

Re: Fatal shooting of Mr. Osbaldo Ramirez-Jimenez on March 17, 2018, by Escondido Police Officer T. Pizzuti; San Diego Sheriff's Case # 18-114439; DA Special Operations Case No. 18-043PS; Deputy District Attorney Assigned: Paul Reizen

Dear Chief Carter:

We have reviewed the reports and other materials compiled by the San Diego Sheriff's Homicide Unit concerning the circumstances leading to the fatal shooting of Mr. Osbaldo Ramirez on March 17, 2018, by Escondido Detective T. Pizzuti. A District Attorney Investigator responded to the scene and was briefed by investigators. This case was presented to the District Attorney's Office for review on August 20, 2018.

Persons Involved

At the time of the incident, Mr. Osbaldo Ramirez was a 50 year old resident of San Diego County. Detective T. Pizzuti had been a police officer for four and half years and was assigned to the Gang Investigations Unit.

Summary

On March 17, 2018 at approximately 7:35 p.m., Escondido Police received a domestic-violence call at Mr. Ramirez's home in Escondido. Ramirez was armed with a hand gun and attempting to flee the scene. Officers responded to the call and attempted to stop Ramirez, but Ramirez failed to yield and fled the area. The officers pursued Ramirez through Escondido into Valley Center and ultimately to the front entrance of the Valley View Casino in Valley Center. Ramirez exited his vehicle and displayed a handgun. Ramirez turned toward Det. Pizzuti, who fired multiple gunshots at Ramirez. Ramirez was struck by the gunfire and ultimately succumbed to his injuries.

Background

Mr. Ramirez and his wife were married for 25 years and had three children together. Their relationship deteriorated and the couple was discussing a divorce causing Ramirez to become depressed. Over the last several months leading up to the incident, Ramirez made several suicidal statements to his family and friends.

Witness Statements

Witness One (W1)

Witness One was married to Mr. Ramirez and the two lived together. On the incident date, W1 spoke with Ramirez over the phone and told him she wanted to end the relationship. This upset Ramirez and an argument ensued. W1 eventually agreed to allow Ramirez to come home later that afternoon to take a shower and drink alcohol.

Later that evening, W1 left to meet with her friend Witness Three, while Mr. Ramirez remained at the residence with their son. While she was on her way to her friend's house, she received a phone call from her son who told her she needed to return home, because Ramirez was "going to hurt himself." W1 returned home and observed Ramirez in the driveway with their son. W1 noticed Ramirez was extremely upset and kept saying "I don't care about my life. I don't care what happens to me." W1 and her son attempted to calm Ramirez, but they were unsuccessful due to his level of intoxication. Mr. Ramirez told W1, "you don't want to talk to me? This is going to be the last time you see me." Ramirez then left the scene in his vehicle.

Witnesses Two and Three (W2 and W3)

Witnesses Two and Three, a married couple, made plans to meet W1 for dinner that evening. W1 called W2 and said something happened at her house. W2 heard W1 say, "he's got a gun and he is going to kill himself."

W2 then contacted the Escondido Police Department as W2 and W3 drove to W1's house. They arrived at the house and observed several members of the family attempting to prevent Mr. Ramirez from leaving the residence. W3 heard W1 and Witness Four telling Mr. Ramirez, "relax, give me the gun." During the incident, W2 and W3 both heard Ramirez say something to the effect of, "call the police, I'm going to pull my gun and I know they are going to shoot me."

Mr. Ramirez subsequently got into his vehicle and drove away from the scene. During the incident, W2 noticed Ramirez was intoxicated and could smell an odor of alcohol emanating from Ramirez's person.

Witness Four (W4)

Witness Four said his father Mr. Ramirez was very depressed for several months due to the separation from his wife and was drinking that night. W4 said his father had been planning for two weeks to kill himself on this specific night. W4 attempted to physically prevent Ramirez from leaving the house because he thought he was going to kill himself. W4 initially told officers he never saw his father in possession of a gun, but later admitted to SDO detectives he tried to wrestle the gun from Ramirez, and was actually able to remove the magazine from the gun.

Witness Five (W5)

Witness Five is Mr. Ramirez's mother-in-law. Ramirez had been drinking, which was unusual for him. Ramirez stated he wanted to hurt himself. W5 admitted Ramirez might have had something on him he could have used to hurt himself. Ramirez wanted the keys to the car, but he was intoxicated and no one would give him the keys. W5 is unsure how he got the keys and did not admit to seeing a gun in Ramirez's possession.

Officer Statements

Officer One (O1)

Officer One learned over dispatch of a domestic-violence incident possibly involving a gun. The reporting party stated the male suspect involved had left in his vehicle and provided a description of the vehicle. At 7:49 pm, O1 spotted Mr. Ramirez's vehicle leaving the area and got behind it as it exited and drove southbound. O1 attempted to conduct a traffic stop and the vehicle fled, initiating a pursuit. O1 put out over the police radio the suspect had thrown what he believed to be a gun from the vehicle near Vista Verde Way and Skyview Glen.

At one point during the pursuit, Mr. Ramirez's passenger side of the vehicle struck the side rock wall, causing rocks to fall into the roadway, but he continued to flee. At about 7:55 p.m., after passing the lake, Ramirez stopped his vehicle in the northbound lane and abruptly opened the driver's side door.

O1 stopped his vehicle and started to get out of his vehicle to initiate a "felony hot stop." Another officer stopped his vehicle and exited to assist in the hot stop. Ramirez quickly closed the door and accelerated the vehicle, and continued northbound on Lake Wohlford Road. Det. Pizzuti then took the lead in the pursuit.

As the pursuit neared the Valley View Casino, Mr. Ramirez turned left onto Nyemii Pass Road, almost colliding with a charter bus exiting onto northbound Lake Wohlford Road. Ramirez then turned into the driveway entrance to the casino and O1 saw Det. Pizzuti follow Ramirez's vehicle into the casino parking lot area. O1 stopped behind another vehicle in the casino parking lot and then heard a rapid succession of gunshots. O1 did not see the shooting, but ran up immediately after hearing shots to assist Pizzuti. O1 approached Ramirez and turned him on his side locating a semi-automatic pistol under Ramirez.

Officers Two and Three (O2 and O3)

Officers Two and Three were riding with Det. Pizzuti when they responded to a radio call of a domestic-violence incident. Both O2 and O3 recalled hearing Mr. Ramirez had a gun per the radio call. The next information given was Ramirez taking off in his car. A pursuit ensued with Ramirez's vehicle and about three other police units. Pizzuti continued to pursue Ramirez into the casino driveway. Ramirez ultimately pulled into the valet area. Pizzuti pulled in behind Ramirez's vehicle.

When Mr. Ramirez pulled in, he stopped quickly and O2 saw the driver side door open. O2, Pizzuti and O3 exited the patrol vehicle quickly. O2 did not have a clear view of the Ramirez's body, but did observe a gun inside Ramirez's right hand, which came out of the car first. He could see the top of Ramirez's head and body began turning toward Pizutti.

O3 believed Mr. Ramirez was armed with a firearm given the previous information given from dispatch and therefore drew his handgun. Additionally, O3 heard someone yell "gun," but did not know who said it. O3 saw Ramirez turn his body and begin exiting his vehicle. O3

saw something silver in color in Ramirez's hand, and then clearly recognized the object as a gun as Ramirez exited his vehicle.

O2 heard Det. Pizzuti yelled something, possibly, "gun." O2 then heard gunshots followed by Pizzuti yelling out something.

O3 heard gunshots and then saw Mr. Ramirez immediately drop to the ground. O3 approached Ramirez to handcuff him and saw a gun in Ramirez's hand.

Both O2 and O3 believed if Ramirez's actions were not stopped he could have injured or killed the officers or any of the patrons at the casino.

Detective Pizzuti

Detective Pizzuti volunteered to respond to a domestic-violence incident involving a male subject (Mr. Ramirez) armed with a gun. Pizzuti heard dispatch state Ramirez was leaving the location in his vehicle and Pizzuti believed Ramirez was still armed with a gun.

O1 saw Mr. Ramirez's vehicle and got into a position travelling behind the vehicle. O1 attempted to initiate a traffic stop, however Ramirez would not yield. Det. Pizzuti recalled hearing O1 put out a pursuit over the radio with Ramirez heading southbound on Vista Verde towards El Norte Parkway.

The pursuit continued eastbound on El Norte Parkway, with Mr. Ramirez driving at a high rate of speed through multiple red lights. The pursuit continued to Valley Parkway, going northbound towards Valley Center.

Mr. Ramirez approached the casino and a large bus began exiting out of the casino complex. The bus had a green light and the pursuit direction of travel had a red light. Det. Pizzuti slowed his speed to prevent a collision, while Ramirez maintained speed. The bus stopped blocking the road, and Ramirez turned towards the casino parking lot. Ramirez made a "hard right" and travelled in the direction of the casino valet, while Pizzuti followed close behind.

Mr. Ramirez came to a stop and Det. Pizzuti stopped behind Ramirez's vehicle. Pizzuti could see the driver's door of Ramirez's vehicle open as Pizzuti opened his patrol vehicle door. Pizzuti stood up out of his vehicle, leaving his door open. Pizzuti cleared his patrol car door, side stepping to the left.

There were multiple cars in and around the valet area. Det. Pizzuti decided to take cover behind the vehicle to the left of his patrol vehicle. Pizzuti observed Mr. Ramirez standing up from his vehicle holding a silver semi-automatic handgun in his right hand.

Det. Pizzuti saw Mr. Ramirez's arms come up towards Ramirez's upper body. Pizzuti un-holstered his firearm while calling out to his partners, saying "gun, gun, gun!" Ramirez was still bringing his hands up holding the gun, while squaring off to Pizzuti. Pizzuti thought Ramirez was going to shoot him. Pizzuti fired at Ramirez multiple times as Ramirez would not drop his gun. Pizzuti believed if he had not used force, the lives of the public and his fellow officers would have been placed in immediate danger as Ramirez was armed and violent. Pizzuti was also concerned Ramirez could turn the incident into a hostage situation at a crowded venue on a holiday weekend.

Investigation

The crime scene was secured, photographed, and investigated by San Diego Sheriff's Office Homicide detectives. All detectives' reports, crime-scene investigators' reports, and audio-recorded witness interviews were reviewed.

The shooting event was captured on the closed-circuit video cameras located in the valet area of the Valley View Casino main entrance. The footage from the video cameras showed Mr. Ramirez drive onto the casino property and pull into the valet area near the main entrance. Several police vehicles are seen following Ramirez including Det. Pizutti's. Mr. Ramirez is seen stopping his vehicle and exiting the vehicle as soon as it comes to a complete stop. Ramirez opens the driver's side door with his left hand and looks back at the officers. Mr. Ramirez begins to exit the vehicle and face back toward the officers and appears to have a light color object in his right hand. Ramirez then falls to the ground. A different casino camera shows officers rendering medical aid to Ramirez and what appears to be a silver semi-automatic pistol is seen on ground near the front tire of Ramirez's vehicle.

Portions of the incident were captured by officers' Body Worn Cameras (BWC). However, none of the footage captured the shooting. BWC video shows officers handcuffing Mr. Ramirez after the shooting. A black and silver semi-automatic pistol is visible on the ground next to Ramirez's right knee.

On March 19, 2018, Dr. Vivian S. Snyder performed an autopsy of Mr. Ramirez. The autopsy documented 16 gunshot wounds to the head, torso, arms and legs; three of these wounds may have been reentry wounds.

Toxicological studies performed on blood collected from Ramirez indicated a blood-alcohol content of 0.11%.

Legal Analysis

This review was conducted pursuant to the joint protocol between this office and all San Diego law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force. The purpose of the District Attorney's review is to provide an independent analysis and determine if the shooting was legally justified.

Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm and to use reasonable force in making an arrest. California Penal Code section 835a allows an officer to use reasonable force to make an arrest and to overcome resistance by a person whom he has reasonable cause to believe has committed a public offense.

In accordance with Penal Code section 196, peace officers may use deadly force in the course of their duties under circumstances not available to members of the general public. We are mindful, however, that certain limits on the use of deadly force apply to peace officers. The U.S. Ninth Circuit Court of Appeals, in the case of *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912, delineated those circumstances under which deadly force may be used:

[P]olice may use only such force as is objectively reasonable under the circumstances. An officer's use of deadly force is reasonable only if 'the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.' All determinations of unreasonable force 'must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.'"

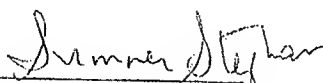
The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. *Graham v. Connor* (1989) 490 U.S. 386, citing *Terry v. Ohio*, 392 U.S., at 20-22.

In addition to any laws applicable to situations where peace officers use deadly force in accomplishing their duties, the law of self-defense is available to any person. A person acts in lawful self-defense or defense of another if she reasonably believed that she or someone else was in imminent danger of suffering bodily injury, believed that the immediate use of force was necessary to defend against that danger, and used no more force than was necessary to defend against that danger.

Conclusion

In this case, Mr. Ramirez led officers in a vehicle pursuit after arming himself with a handgun and telling family members he wanted to have police officers shoot him. Detective Pizutti pursued Ramirez to the valet area of the main entrance to the Valley View Casino, where Ramirez exited his vehicle and raised the handgun in the direction of Pizutti. Based on these circumstances, Pizutti fired at Ramirez in his own defense and in the defense of his fellow officers. He therefore bears no state criminal liability for his actions. A copy of this letter, along with the materials submitted for our review, will be retained in our files.

Sincerely,


SUMMER STEPHAN
District Attorney

SS:gm

cc: Sheriff William Gore
San Diego Sheriff's Department